

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

STEPHEN J. NEFF,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-0602

JO ANNE B. BARNHART,  
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered nunc pro tunc May 13, 2002, and filed in this case on June 16, 2004, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and recommendation. Magistrate Judge VanDervort submitted his proposed findings and recommendation on April 22, 2005. In that Proposed Findings and Recommendation, the magistrate judge recommended that this court 1) deny the plaintiff's motion for summary judgment, 2) grant the defendant's motion for judgment on the pleadings, 3) affirm the final judgment of the commissioner, and 4) dismiss this action from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. No party has filed objections within the

requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby **DENIES** the plaintiff's motion for summary judgment, **GRANTS** the defendant's motion for judgment on the pleadings, **AFFIRMS** the final decision of the Commissioner, and **DISMISSES** this matter from the court's docket.

The Clerk is directed to forward a certified copy of this written opinion and order to counsel of record and to any unrepresented party.

IT IS SO ORDERED this 23rd day of June, 2005.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber  
Chief Judge